

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GUY ROSENSCHEIN,

Defendant.

1:16-CR-4571-JCH

**NON-PARTY MICROSOFT CORPORATION’S MOTION FOR LEAVE TO FILE
RESPONSE TO DEFENDANT’S OBJECTIONS TO
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

Non-Party Microsoft Corporation has moved to modify Defendant’s Rule 17(c) subpoena because compliance would be unreasonable and oppressive in light of the extraordinarily broad scope of the subpoena’s eighteen requests, and because the subpoena fails to meet the specificity, relevancy, and admissibility requirements under *United States v. Nixon*, 418 U.S. 683 (1974). *See* ECF No. 125. This Court referred Microsoft’s Motion to Magistrate Judge Ritter for decision pursuant to 28 U.S.C. § 636(b)(1)(A) and Fed. R. Crim. P. 59(a). *See* ECF No. 139. On October 2, 2019, Magistrate Judge Ritter issued Proposed Findings and Recommended Disposition, recommending that Microsoft’s Motion be granted. *See* ECF No. 183. On October 16, 2019, Defendant filed objections to the Proposed Findings and Recommended Disposition, asking this Court to “set aside” the Magistrate Judge’s decision. *See* ECF No. 185 at 2. In order to respond to Defendant’s arguments in his objections, Microsoft hereby respectfully requests leave to file a response to Defendant’s objections by November 8, 2019.

Microsoft has conferred with counsel for the Defendant regarding this motion, who has advised that Defendant does not object to Microsoft’s request for leave to file a response.

Dated: October 21, 2019

Respectfully submitted,

PEIFER, HANSON & MULLINS, P.A.

By: /s/ Mark T. Baker

Mark T. Baker

P.O. Box 25245

Albuquerque, NM 87125-5245

Tel: (505) 247-4800

Fax: (505) 243-6458

Email: mbaker@peiferlaw.com

-and-

Alexander A. Berengaut

Megan A. Crowley

Jadzia B. Pierce

Covington & Burling, LLP

One City Center

850 Tenth Street, NW

Washington, DC 20001-4956

Tel: (202) 662-5367

Email: aberengaut@cov.com

MCrowley@cov.com

JPierce@cov.com

Attorneys for Non-Party Microsoft Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 21, 2019, the foregoing Motion was filed electronically pursuant to CM/ECF procedures for the District of New Mexico, which caused counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

PEIFER, HANSON & MULLINS, P.A.

By: /s/ Mark T. Baker

Mark T. Baker